

104TH CONGRESS

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 IN THE SENATE OF THE UNITED STATES

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 A BILL

To facilitate the ability of private owners to site, design, license, construct, operate and decommission a private facility for the interim or permanent storage of commercial high-level spent nuclear fuel on the Pacific Atoll subject to licensing by the Nuclear Regulatory Commission.

Be it enacted by the Senate and the House of Representatives of the United States in Congress Assembled.

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS

(a) Short Title--This Act may be cited as the "Private Storage Facility Authorization Act of 1996."

(b) Table of Contents--The Table of Contents for this Act is as follows:

- Sec. 1. Short title and table of contents.
- Sec. 2. Findings and purposes
- Sec. 3. Definitions
- Sec. 4. Authorization and siting of private storage facility.
- Sec. 5. Funding of private storage facility.
- Sec. 6. Design of private storage facility.
- Sec. 7. Transfer of ownership of spent nuclear fuel.
- Sec. 8. Transportation.
- Sec. 9. Activities of the Commission.
- Sec. 10. Participation in the project by Minatom
- Sec. 11. Plutonium processing facility
- Sec. 12. Trust fund to cover cost of final disposal
- Sec. 13. Trust fund for benefit of pacific island nations

SECTION 2. FINDINGS AND PURPOSES.

(a) FINDINGS: Congress finds that--

(1) The Age of Nuclear Energy has brought with it three worldwide problems that may be summarized as follows:

(A) Safely disposing of high-level spent nuclear fuel which is necessarily generated in the process of producing electrical energy by nuclear technology and which is dangerous to life and ecology.

(B) Safeguarding of high-level spent nuclear fuel so that its by-products cannot be used to produce and proliferate weapons grade nuclear material.

(C) Safe storage and/or processing of plutonium that is surplus to legitimate national security requirements to insure that it does not fall into the hands of rogue governments and terrorists.

(2) Because of siting problems it has so far not been possible to begin construction of a repository for storage of high-level spent nuclear fuel in the United States even though the U. S. Department of Energy is contractually obligated to have such a facility available by January 31, 1998.

(3) Facilities for the temporary storage of spent nuclear fuel--primarily at the power plants that used the fuel--are virtually exhausted, a problem that affects the nuclear power industry all over the world.

(4) Reprocessing of spent nuclear fuel is a method of separating the components of that fuel so that the uranium it contains can be reused to generate electric power, but this method is not approved in the United States because it yields by-products that can be used to produce weapons grade nuclear materials.

(5) Prompt implementation of the plan for building a private storage facility will make it possible to include Minatom, the nuclear energy facility of the Russian Federation, as an equity partner in the project, a move that will greatly reduce the threat of weapons-grade nuclear materials falling into the hands of irresponsible nations while at the same time benefiting the ecology by providing the Russian Federation a safe repository for its high-level nuclear spent fuel. Participation by Minatom as an equity partner will enable Minatom to share substantially in the profits realized by the project.

(b) PURPOSES.--The purposes of this Act are--

(1) To facilitate the ability of private owners to site, design, license, construct, operate and decommission a facility for the safe storage of high-level commercial spent nuclear fuel and to establish procedures that will make such a facility available in the shortest possible time. The existence of this facility will provide adequate and safe storage space for all commercial high-level spent nuclear fuel and will render unnecessary and uneconomical the reprocessing of spent nuclear fuel.

(2) To authorize private owners to designate and develop a site for a private storage facility on Palmyra Atoll for high-level spent nuclear fuel and facilities for storage and

processing of surplus plutonium.

SECTION 3. DEFINITIONS

In this Act:

(2) **Commercial high-level Spent Nuclear Fuel**--The term "commercial high-level spent nuclear fuel" means fuel that has been withdrawn from a nuclear reactor primarily dedicated to the production of electric power following irradiation, the constituent elements of which have not been separated by reprocessing.

(3) **Plutonium**--The term "plutonium" refers to one of the by-products of nuclear fission that in its refined form is essential to the production of nuclear weapons.

(4) **Commission**--The term "Commission" means the United States Nuclear Regulatory Commission.

(5) **Private Owners**--the term "private owners" means a group of investors organized into three corporations formed for the purpose of developing and operating a private storage facility for commercial high-level spent nuclear fuel and surplus plutonium in accordance with the provisions of this Act.

(6) **Private Storage Facility**--The term "private storage facility" means a facility designed, constructed and operated by private owners for the receipt, handling, possession, safeguarding and storage of commercial high-level spent nuclear fuel in accordance with the provisions of this Act.

(7) **Storage**--The term "storage" means retention of commercial high-level spent nuclear fuel with the intention of recovering the components of that fuel for subsequent use, processing or disposal. This term is not to be confused with the term "final disposal," which refers to high-level spent nuclear fuel whose toxicity has been reduced to an as yet theoretical level that poses no possible danger to life, health or environment.

SECTION 4. AUTHORIZATION FOR SITING, CONSTRUCTION AND OPERATION OF A PRIVATE STORAGE FACILITY.

(a) **Authorization**--

(1) The private owners may site, design, license,

construct, operate and decommission a private storage facility on Palmyra Atoll for the storage of commercial high-level spent nuclear fuel in accordance with the regulations of the Nuclear Regulatory Commission.

(2) In order to facilitate this authorization, Title VI, Section 605(a) of Public Law 96-205 (48 U.S.C. §1491(a)) is amended by adding the words "or to the Atoll known as Palmyra" to the end of the last line of Section 605(a).

(3) License--On application by the private owners, the private storage facility shall be licensed by the Commission in accordance with its regulations governing the licensing of independent spent fuel installations as modified in accordance with Section 9 infra.

(b) Designation of Private Storage Facility site--The site designated by the private owners for a private storage facility is Palmyra Atoll, which is owned in fee by them and is not under the jurisdiction of any state.

(c) Activities--The private owners shall be authorized to conduct specified activities at the private storage facility site, including the design, licensing, construction, operation and decommissioning of the private storage facility, with the scope of activities to be determined by the private owners.

SECTION 5. FUNDING OF THE PRIVATE STORAGE FACILITY.

Source of Funding--The private owners will obtain funding for the design, licensing, construction and operation of the private storage facility from private sources. Income will be derived from user fees.

SECTION 6. DESIGN OF PRIVATE STORAGE FACILITY

(a) Storage Capacity--The private storage facility shall have a storage capacity of not less than 200,000 metric tons of commercial high-level spent nuclear fuel and plutonium. This capacity shall be expandable as necessary to meet storage requirements.

(b) Canister System--The design of the private storage facility shall provide for the use of such containment and transportation technologies as are licensed and certified by the Nuclear Regulatory Commission for use in handling, transportation and storage of high-level spent nuclear fuel.

SECTION 7. TRANSFER OF OWNERSHIP OF SPENT NUCLEAR FUEL.

At the time that spent nuclear fuel is transferred to the canisters belonging to the private owners, ownership of that fuel

shall vest in the private owners.

SECTION 8. TRANSPORTATION.

Upon acceptance by the private owners of spent nuclear fuel, the spent nuclear fuel shall be transported to the private storage facility in the safest, most cost-efficient manner in accordance with the regulations for such transit of the Nuclear Regulatory Commission and the Department of Transportation.

SECTION 9. ACTIVITIES OF THE COMMISSION.

(a) Regulations--Not later than 180 days after the date of enactment of this Act the Commission shall amend its regulations governing the licensing of independent spent nuclear fuel storage installations, as necessary, to provide for the licensing of the private storage facility upon application by the private owners.

(b) Contents--The regulations issued under subsection (a) shall incorporate the following provisions:

(1) Location of Facility--The private storage facility shall be located at the site specified in Section 4 supra.

(2) Term of license--The private storage facility shall be licensed for the maximum period consistent with applicable law.

(c) Licensing--On application by the private owners for a license for construction and operation of the private storage facility at the designated site, the Commission shall review the license application and issue a final decision on it at the earliest practicable date, to the extent permitted by law and regulation, but not later than 18 months after receipt of the license application.

(d) Compliance with the National Environmental Policy Act of 1969--Preparation of an environmental impact statement by the Commission under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. §4332(2)(C) in conjunction with the licensing of the private storage facility authorized by this Act shall not be required.

(e) Dredging permit--The issuance of a permit under Section 404 of the Clean Water Act (33 U.S.C. §1344) for dredging of the lagoon in the Palmyra Atoll in conjunction with this project shall not be required.

SECTION 10. PARTICIPATION IN THE PROJECT BY MINATOM.

It shall be a condition binding on the private owners that Minatom, the nuclear energy facility of the Russian Federation, be offered a substantial equity position in the real estate and global

services of this project in exchange for its agreement to deny nuclear weapons technology and materials to any nation whose interests and policies are inimical to the security interests of either the United States or the Russian Federation as determined by their respective heads of state. In exchange for equity participation in the project, Minatom also will not make any commitment for reprocessing high level spent nuclear fuel from sources outside of the Russian Federation after the time that this Act becomes law.

SECTION 11. PLUTONIUM STORAGE AND PROCESSING FACILITY.

For the purpose of implementing a global policy of nuclear non-proliferation, the private owners will design and build at their own cost, using revenues derived from storage fees, a facility for storage, conditioning, stabilizing and conversion of plutonium that is surplus to the security requirements of the United States and Russia. The private owners will not operate this facility, but it will be available for joint operation by the United States Department of Energy and Minatom.

SECTION 12. TRUST FUND FOR FINAL DISPOSITION.

From revenues received from storage fees, the owners will contribute to a trust fund to be administered by the United States Department of Energy the sum of \$100,000 for each metric ton of high level spent nuclear fuel deposited in the private storage facility, which fund shall be used to defray the cost of making final disposition of the high-level spent nuclear fuel existing in the private storage facility at the time the disposition decision is made.

SECTION 13. TRUST FUND FOR BENEFIT OF PACIFIC ISLAND NATIONS.

In recognition of the interest in and support of this project on the part of the Pacific Island Nations, the private owners will establish a Trust Fund, to be administered by the Office of Insular Affairs of the United States Department of the Interior and based in Hawaii, that will receive a share of the profits from each metric ton of spent nuclear fuel placed in the Private Storage Facility. This trust will be funded by an initial contribution of \$100,000,000 plus an increment of \$25,000 for each metric ton deposited in the private storage facility up to a maximum payout of \$250,000,000 per annum. This fund will be used to assist the Pacific Island Nations in economic development, education and environmental protection.